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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/709,058 | 04/09/2004 | David Scott Ross | DR01 | 3057 |
| 27797 | 7590 | 07/13/2005 | EXAMINER | |
| RICHARD D. FUERLE 1711 W. RIVER RD. GRAND ISLAND, NY 14072 | | | ARYANPOUR, MITRA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3711 | |

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/709,058

Applicant(s)

ROSS ET AL.

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09 April 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings filed on 09 April 2004 are objected to under 37 CFR 1.52 because surface shading shown is not appropriate in figures 3-5. Corrected drawings are required.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "13" has been used to designate both bat 13 (see paragraph 0013 of the specification) and should 13 (see figure 4). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: in paragraph [0007] "." should be deleted after "a". Appropriate correction is required for the above objection.
4. The use of the trademark VELCRO has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

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5. The disclosure is objected to because of the following informalities: 37 CFR 1.52(b) requires: the text to be written in a nonscript type font (e.g., Arial, Times Roman, or Courier) lettering style having capital letters which are at least 2.1 mm (0.08 inch) high. See 37 CFR 1.52; MPEP; chapter 600 under the heading Paper Requirements.

6. The abstract of the disclosure is objected to because the 000language repeats information given in the title. Therefore, the title appearing on the top of the page should be deleted. See MPEP § 608.01(b).

Claim Objections

7. While there is no set statutory form for claims, the present Office practice is to insist that when there is several claims, which in the instant case there is, the claims should be numbered consecutively in Arabic numerals, see MPEP 608.01(j). The current claim numbering [c1] should be changed to read **Claim 1**. Appropriate correction is required for the above objection.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meharg (5,566,935) in view of Sugimoto (3,065,566).

Regarding claim 1, Meharg shows an inflatable three-dimensional figure having a torso (the upper portion of the dummy above divider 24); legs terminating in feet (18); arms (see figure 1); an inflatable three dimensional head (see figure 1). Meharg shows the dummy is divided into a plurality of compartments so a leak is confined to only one portion of the entire dummy. Meharg shows the body is divided into the upper compartment (above divider 24) the central compartment (between divider 24 and 25) and the lower compartment (the area below divider 25). Meharg shows that other arrangements can be used, but does not expressly disclose the head region being a separate compartment. Sugimoto shows an inflatable toy, wherein the toy includes a hollow body portion (1) and detachable body parts (arms, legs and head). In view of Sugimoto it would have been obvious to form Meharg's inflatable dummy with detachable body parts, the motivation being to permit various poses of the parts and that would allow the body parts to be readily detachable and rotatable. Additionally, Meharg shows various means can be used to either permanently or releasably attach the feet (18) to a platform (14) in order to stably secure the inflatable dummy (see column 2, lines 18-28).

Meharg does not expressly disclose the use of weighted material positioned in the feet of the dummy to make the dummy self-supporting. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to include a weighted material in the feet to make the dummy self-supporting, because Applicant has not disclosed that including weight in the feet of the dummy, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the stabilizing means taught by Meharg or the claimed stabilizing means because both stabilizing means perform the same function of stably securing the dummy to a platform in order that the dummy be self-supporting. Therefore, it would have been an obvious matter of design choice to modify Meharg to obtain the invention as specified in claim 1.

Regarding claim 2, Meharg as modified in view of Sugimoto additionally show the head is attachable to the torso by means of a first patch fixed to the base of said head and second patch fixed to the top of said torso, where one patch comprises a multiplicity of exposed hooks and the other patch comprises an exposed fabric to which said hooks attach. It should be noted that the broadest reasonable interpretation of first and second patches would include the combination of projections and grooves as shown in figure 2 of Sugimoto.

Regarding claim 3, Meharg as modified in view of Sugimoto additionally show the head can be attached and turned in any direction relative to the body.

Regarding claims 4 and 5, Meharg as modified above additionally shows the torso has at least two chambers (26 and 28) and the legs have one independent chamber (29).

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Regarding claims 6 and 7, Meharg as modified above does not expressly disclose the weighting means. The Examiner takes Official Notice that both sand and water are well known weighting means and would have been obvious material of choice to include in Meharg's feet in order to stably secure the inflatable body to the ground or platform.

Regarding claim 8 and 9, Meharg does not expressly disclose the height of the dummy, but teaches that the height is adjustable and the dummy can be made in several sizes or more expansion areas may be included (see column 3, lines 34-39).

Regarding claims 10 and 11, Meharg shows the head has a face and the body has a uniform.

Regarding claims 12 and 13, Meharg does not expressly disclose the material the dummy is formed from. It is customary to form inflatable dummies from plastic material such as polyethylene, Sugimoto clearly shows this (see column 1, lines 17-22). Therefore, it would have been further obvious to form the dummy of Meharg from the aforementioned material, since the material is commonly used for this purpose.

Regarding claim 14, Meharg additionally shows the bottom of the dummies feet (18) is flat (see figure 3).

Regarding claim 15, Meharg shows the dummy is holding a bat (see figure 1).

Regarding claim 16, Meharg shows the dummy is wearing a cap (see figure 1).

Regarding claim 17, note the rejection of claims 1, 3, 10, 11 and 15.

Regarding claim 18, note the rejection of claim 4.

Regarding claim 19, note the rejection of claim 5.

Regarding claim 20, note the rejection of claims 1, 2, 4, 6 and/or 7, 10, 11 and 15.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MITRA ARYANPOUR
PRIMARY EXAMINER

MA
07 July 2005